

REMARKS

1. Remarks Regarding Phone Discussion with the Examiner:

Applicants thank the Examiner for the courtesy of telephone discussions on September 23, 2008 and January 9, 2009. During those discussions, the examiner agreed to the following:

a. Withdrawal of the election of species requirement for Groups 2, 3, 4, 5, and 6 because while the Action indicated a species is to be selected, no species were identified leaving Applicants without a basis to elect species.

b. Withdrawal of the indefiniteness rejection against claims 9, 10, 12, 22, 23 and 30 because the Action has not provided a reason and statutory basis for the indefiniteness finding and because the Action has not provided Applicants with the proper time (usually 3 months) to respond to allegations of indefiniteness.

c. The removal of the withdrawal of claims 9, 10, 12 and 23 because the Action has not provided a reason and statutory basis for the indefiniteness finding and because the Action has not provided Applicants with the proper time (usually 3 months) to respond to allegations of indefiniteness.

d. The withdrawal of the rejection of claims 22 and 30 under 35 U.S.C. § 101 for lacking utility because the Action has not provided the Applicants with the proper 3 month period for response.

2. Remarks Regarding Restriction Requirement:

Claims 1-24 are pending. Applicants elect with traverse Group 2 (claims 1-6, 14 and 15) and claim 9 for further prosecution. Applicants elect both group 2 and claim 9 because claim 9 was not properly restricted into a group in the Office Action. This leaves Applicants unable to respond to the restriction requirement because it is unclear which group of claims encompasses claim 9. Furthermore, Applicants believe it would not be an undue burden for the Examiner to examine Group 2 claims with claim 9.

Claims 1-6, 9, 14 and 15 read on Applicants election.

This election is made with traverse. Notwithstanding the above election, reconsideration of the restriction requirement is requested because examination of all pending claims would not constitute a serious burden. Although the inventions identified by the Examiner are separately patentable, both the need for compact prosecution and the public interest would be served by examination of all claims in a single application.

If the Examiner disagrees with Applicants' election of Group 2 (claims 1-6, 14 and 15) and claim 9 for further prosecution, Applicants respectfully request that the Examiner provide a second restriction requirement listing all the claims into restriction groups so that Applicants can properly elect the proper claim group for further prosecution.

3. Remarks Regarding Species Election:

The Office Action of September 11, 2008 required species election for various groups but the Examiner has not provided species for the Applicants to elect. Applicants therefore traverse at least on the basis that it is impossible to answer the species election without given a choice of species.

Applicants thank the Examiner for withdrawing all species election requirement in a telephone discussion with Applicants on September 23, 2008 – see, section 1 above. In view of this Applicants respectfully request the withdrawal of the species election.

4. Remarks Regarding Withdrawn Claims:

Claims 9, 10, 12, and 23 were withdrawn by the Examiner because of alleged indefiniteness. Applicants traverse for at least the following reasons: The actual statutory basis for this description of indefiniteness was not provided by the Action of September 11, 2008 giving Applicants no basis for argument. Withdrawal without Applicants consent is improper without giving Applicants a chance to argue against allegations of indefiniteness. Further, Applicants were given one month instead of 3 months to respond to this description/withdrawal. Therefore, a prima facie basis for this indefiniteness rejection has not been established.

Applicants thank the Examiner for withdrawing this withdrawal in a telephone discussion with Applicants on September 23, 2008 – see, section 1 above. In view of this Applicants respectfully request that claims 9, 10, 12, and 23 be reinstated as pending (i.e., not withdrawn).

5. Remarks Regarding Indefiniteness Description:

Claims 9, 10, 12, 22, 23 and 30 was described as indefinite. Applicants traverse for at least the following reasons: The actual statutory basis for this description was not provided by the Action of September 11, 2008 giving Applicants no basis for rebutting the description. Further, Applicants were given one month instead of 3 months to respond to this description. The word rejection was not used so Applicants are unclear whether a response is necessary. For all these reasons, a prima facie basis for this indefiniteness description/possible rejection has not been established.

Applicants thank the Examiner for withdrawing all indefiniteness rejections in a telephone discussion with Applicants on September 23, 2008 – see, section 1 above. In view of this Applicants respectfully request the withdrawal of the indefiniteness rejection.

5. Remarks Regarding 35 U.S.C. §101 rejection:

Claims 22 and 30 stands rejected under 35 U.S.C. § 101. Applicants traverse this rejection since the Office Action has not provided Applicants with the proper period of 3 months to respond to the rejection.

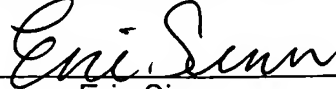
Applicants thank the Examiner for withdrawing all 35 U.S.C. §101 rejections in a telephone discussion with Applicants on September 23, 2008 – see, section 1 above. In view of this Applicants respectfully request the withdrawal of this rejection.

CONCLUSION

Applicants earnestly solicit an early and favorable examination on the merits. The Examiner is invited to contact the undersigned if any further information is required.

Respectfully submitted,

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